

## Immigration (Health Charge) Order 2015 House of Lords - Consideration in Grand Committee

**Tuesday 10th March 2015**

The British Medical Association (BMA) is a voluntary professional association and an independent trade union which represents doctors and medical students from all branches of medicine all over the UK. With a membership of over 153,000, we promote the medical and allied sciences, seek to maintain the honour and interests of the medical profession and promote the achievement of high quality healthcare.

### Executive Summary

- The Draft Order implements provisions in the Immigration Act 2014 so that eligibility for free NHS services is dependent on migrants having indefinite leave to remain (ILR). Many migrants who do not have ILR in the UK are working, paying tax, and making National Insurance contributions. The implementation of the Draft Order will mean that this group of migrants will have to make an additional payment for their healthcare, which is unfair.
- We are concerned about the equity of these changes as there are significant variations in the length of time it takes for individuals to become eligible for ILR.
- The introduction of a health surcharge could make the UK a less attractive destination for skilled workers from outside the EEA, including doctors and other healthcare professionals.
- A system is already in place which allows the NHS to recover the cost of treating patients who are not eligible for NHS care, including EU citizens. Rather than changing the residency criteria and introducing a new health surcharge, the BMA believes improvements ought to be made within the current charging system in order to ensure charges are imposed when they should be, and costs are recouped.

### Introduction

The BMA accepts the need to protect the public purse by limiting access to healthcare in some circumstances, preventing the deliberate misuse of limited resources. Any measures to do so must be practical, necessary, and appropriate.

The Draft Order would introduce a change to the residency criteria, implementing a provision in the Immigration Act 2014, so that eligibility for free NHS services is dependent on migrants having indefinite leave to remain. We are concerned that some of the migrant workforce working in the UK



and paying tax and National Insurance (NI) will effectively be double charged for health services as a result of this change.

These complex changes to migrant charges for health services will create an extremely bureaucratic system. GPs and other healthcare professionals do not have the capacity to be involved in administering an extended charging system, given the complexity of the current immigration rules. It is doubtful that the expensive bureaucracy required to support an extended charging system would recoup enough money to cover the costs of establishing such a system.

### **Changing the qualifying residency criteria for access to free NHS treatment**

The Draft Order would implement a change to the residency criteria such that eligibility for free NHS services is dependent on migrants having indefinite leave to remain (ILR). There are significant variations in the length of time it takes for individuals to become eligible for ILR. A medical student, for example, comes to the UK on a Tier 4 visa and remains on this visa for seven or eight years. It is only once the individual has moved from Tier 4 and completed five years on Tier 2, or after completing a total of ten years in the UK to meet the ten year long residence rule, that they would become eligible for ILR. The BMA has questioned the equity of these changes, given the significant differences in the length of time individuals would be subject to a charge, ranging from five to ten years.

Many migrants who do not have ILR in the UK are working, paying tax and making National Insurance contributions. They would effectively be paying twice for their healthcare. Rather than adopting the ILR principle, we believe the current ordinary residence principle should be maintained, with improvements being made within the current charging system; this would help ensure charges are imposed when they should be. We would welcome clearer guidance on what the current ordinary residence principle entails and better training of the staff who assess whether charges should be made.

There appears to be a misconception that patients who receive free access to primary medical services should always be given free care in hospitals. This is not correct. Where patients are liable for charges we would like to see improvements in existing systems for recovering costs of treatment before the implementation of more complex charging systems.

### **The potential impact of a health surcharge**

The BMA is concerned that implementing a health surcharge risks having a negative impact on the UK's attractiveness as a destination for skilled workers, particularly in shortage occupations where there are insufficient workers from the UK or EEA workforce.

For example, in the UK, consultants in emergency medicine, haematology and old age psychiatry are on the shortage occupation list. Non-consultant, non-training medical posts in anaesthetics, general medicine and psychiatry are also on the list.

We have raised concerns that the imposition of a health surcharge, when combined with visa application fees and maintenance requirements, is likely to have an impact on the UK's ability to attract high quality migrants to medical jobs on the shortage occupation list. These proposals could have a negative impact on patient care. In 2010, doctors practising in UK who qualified overseas made up just over a third (37%) of registered doctors in the UK. This figure is lower than previous years and appears to have been caused by the introduction of work permits for all International Medical Graduate doctors wanting to work in the UK.<sup>1</sup>

**March 2015**

**For further information, please contact:**

**Stephanie L Creighton MCIPR, Interim head of public affairs and public information**

**T: 020 7383 668 | M: 07824 550 771 | E [screighton@bma.org.uk](mailto:screighton@bma.org.uk)**

## **References**

---

<sup>1</sup> [http://www.gmc-uk.org/State\\_of\\_medicine\\_Final\\_web.pdf\\_44213427.pdf](http://www.gmc-uk.org/State_of_medicine_Final_web.pdf_44213427.pdf)